



DEPARTMENT OF THE TREASURY

31 CFR Part 1

RIN 1505-AC43

Privacy Act, Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of a proposed amendment to update its Privacy Act regulations, and to add an exemption from certain provisions of the Privacy Act for a system of records related to the Office of Intelligence and Analysis.

DATES: Comments must be received no later than [Insert date 30 days after publication in the *Federal Register*].

ADDRESSES: Written comments should be sent to the Director Intelligence Information Systems, Office of Intelligence and Analysis, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. The Department will make such comments available for public inspection and copying in the Department's Library, Room 1020, Annex Building, 1500 Pennsylvania Ave. NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Standard Time. You must make an appointment to inspect comments by telephoning (202) 622-0990 (not a toll free number). You may also submit comments through the Federal rulemaking portal at <http://www.regulations.gov> (follow the instructions for submitting comments). All comments, including attachments and other supporting materials,

received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Director Intelligence Information Systems, Office of Intelligence and Analysis, Department of the Treasury, at (202) 622-1826, facsimile (202) 622-1829, or email OIAExec@treasury.gov.

SUPPLEMENTARY INFORMATION: The Department is establishing “Treasury/DO. 411-Intelligence Enterprise Files,” maintained by the Office of Intelligence and Analysis.

Under 5 U.S.C. 552a(k)(1), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is subject to the provisions of 5 U.S.C. 552(b)(1), which regards matters specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

To the extent that records in this system of records contain information subject to the provisions of 5 U.S.C. 552(b)(1), the Department of the Treasury proposes to exempt those records from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1):

(1) from subsection 5 U.S.C. 552a(c)(3) (Accounting for Disclosures) because release of the accounting of disclosures of the records in this system could alert individuals whether they have been identified as a national security threat or the subject of an investigation related to the national security interests of the United States, including threats to the national security, foreign policy, or economy of the United States, to the existence of the investigation and reveal investigative interest on the part of the Department of the Treasury as well as the recipient agency. Disclosure of the accounting would present a serious impediment to efforts to protect national security interests by giving individuals an opportunity to learn whether they have been

identified as suspects or subjects of a national security-related investigation. As further described in the following paragraph, access to such knowledge would impair the Department's ability to carry out its mission, since individuals could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in progress;
- (iii) Learn the nature of the investigation;
- (iv) Learn the scope of the investigation;
- (v) Begin, continue, or resume conduct that may pose a threat to national security upon inferring they may not be part of an investigation because their records were not disclosed; or
- (vi) Destroy information relevant to the national security investigation.

(2) from subsection 5 U.S.C. 552a(d)(1), (d)(2), (d)(3), and (d)(4), (Access to Records) because access to a portion of the records contained in this system of records could inform individuals whether they have been identified as a national security threat or the subject of an investigation related to the national security interests of the United States, including threats to the national security, foreign policy, or economy of the United States, to the existence of the investigation and reveal investigative interest on the part of the Department of the Treasury or another agency. Access to the records would present a serious impediment to efforts to protect national security interests by permitting the individual who is the subject of a record to learn whether they have been identified as suspects or subjects of a national security-related investigation. Access to such knowledge would impair the Department's ability to carry out its mission, since individuals could take steps to impede the investigation and avoid detection or apprehension, including the steps described in paragraph (1)(i)-(vi) of this section. Amendment

of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. The information contained in the system may also include classified information, the release of which would pose a threat to the national security, foreign policy, or economy of the United States. In addition, permitting access and amendment to such information could disclose sensitive security information that could be detrimental to the Department of the Treasury.

(3) from subsection 5 U.S.C. 552a(e)(1), (Relevance and Necessity of Information) because in the course of its operations, OIA must be able to review information from a variety of sources. What information is relevant and necessary may not always be apparent until after the evaluation is completed. In the interests of national security, it is appropriate to include a broad range of information that may aid in identifying and assessing the nature and scope of terrorist or other threats to the United States. Additionally, investigations into potential violations of federal law, the accuracy of information obtained or introduced, occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of federal laws, it is appropriate to retain all information that may aid in establishing patterns of suspicious or unlawful activity.

(4) from subsection 5 U.S.C. 552a(e)(4)(G), (H), and (I) (Agency Requirements), and 5 U.S.C. 552a(f), because portions of this system are exempt from the access and amendment provisions of subsection (d). The reason for invoking the exemption is to protect material authorized to be kept secret in the interest of national security, which includes threats to the national security, foreign policy, or economy of the United States, pursuant to Executive Orders 12968, 13526, successor or prior Executive Orders, and other legal authorities relevant to the

intelligence responsibilities of the Department of the Treasury.

The Department of the Treasury will publish separately in the *Federal Register* a notice of a proposed system of records related to the records maintained by OIA entitled “Treasury/DO. 411-Intelligence Enterprise Files.”

As required by Executive Order 12866, it has been determined that this rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis. Pursuant to the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities. The term “small entity” is defined to have the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction” as defined in the RFA.

The proposed regulation, issued under section 552a(k) of the Privacy Act, is to exempt certain information maintained by the Department in the above system of records from notification, access, and amendment of a record by individuals. Inasmuch as the Privacy Act rights are personal, small entities, as defined in the RFA, are not provided rights under the Privacy Act and are outside the scope of this regulation.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, subpart C of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1--[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 is amended in paragraph (e)(1)(i) by adding an entry for “DO .411-Intelligence Enterprise Files” to the table in numerical order.

§1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(e) ***

(1) ***

(i) ***

Number System name

DO .411..... Intelligence Enterprise Files

Dated: September 11, 2014

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

BILLING CODE: 4810-25-P

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